

207-2

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-28463-2018 (O&M)

Date of Decision:20.09.2022

Banto Devi

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Tushar Wadhwa, Advocate
for Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of an appropriate writ commanding the respondents to not dispense with the services of the petitioner as part time Sweeper and induct her back.

2. Succinct facts first. Pleaded case is that petitioner was appointed as Part Time Sweeper in Education Department by Block Education Officer on 02.07.2007. Thereafter, the post held by the petitioner was put at the disposal of Panchayat Samiti. Ultimately, a resolution was passed on 15.11.2011 (Annexure P-3) whereby, the petitioner was treated as Government employee for all intents and purposes. Pursuant to office order (Annexure P-1) date of appointment of the petitioner was shown as 25.05.2007 and her name figured at Sr. No.27. Other employees who were appointed on the same terms and conditions were though getting D.C. rates, but petitioner was not paid the same wages. She approached this Court vide CWP No.16128 of 2015 and this Court directed the respondents to decide representation of the petitioner. However, the Office of the District Education Officer, Sirsa rejected the claim of the petitioner vide order dated 05.02.2016 (Annexure P-6) on the ground that the petitioner was appointed on 12.05.2007 but was replaced by

Smt. Dhapa Devi. Thereafter, the petitioner was again appointed vide resolution dated 15.12.2011 on fixed remuneration.

3. Learned counsel for the petitioner would argue that one Part Time Sweeper cannot be replaced with another Part Time Sweeper. He further points out that, one Krishna has been appointed in place of the petitioner. Per contra, learned state counsel urges that state has nothing to do with it as petitioner was appointed, if at all, through resolution of Panchayat.

4. In the return filed by the State/respondents, the following unequivocal stand has been taken by :-

“8. That in reply to contents of para No.8 of the writ petition, it is submitted that Gram Panchayat, Village Mochiwali had discontinued the services of the petitioner on the post of part time sweeper in Govt. Middle School, Mochiwali. It is wrong that Smt. Krishna is working in place of the petitioner. At present, no sweeper is working in the Govt. Middle School, Mochiwali. The other contents of this para do not relate to the answering respondents, as such, require no reply.”

5. Perusal of the above shows that the petitioner was misled into filing this petition under the impression that her services have been dispensed with to accommodate another person who was appointed as Part Time Sweeper in her place. The stand taken by the department reflects otherwise.

6. Be that as it may, such disputed facts cannot be adjudicated in extraordinary writ jurisdiction. However, due to long pendency of this writ petition before this Court, it will be rather travesty to remit the matter before the Civil Court to adjudicate on the disputed facts.

7. Consequently, this petition is disposed of with the expectation from the respondents that, in case, currently there is no Sweeper hired by the Gram Panchayat, as is the defense before this Court, then subject to exigency of work, petitioner's case would be

considered sympathetically, given that she had rendered her services for as many as five years in past, as canvassed by her learned counsel.

8. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

September 20, 2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No